

SENATE RECORD VOTE ANALYSIS

105th Congress
2nd Session

Vote No. 187

July 8, 1998, 5:46 p.m.
Page S-7675 Temp. Record

IRS REFORM/Conference, Veteran Smoking Disabilities

SUBJECT: Conference report to accompany the Internal Revenue Service Restructuring and Reform Act of 1998 . . . H.R. 2676. Chafee motion to table the Murray appeal of the ruling of the Chair against the Murray point of order that Title IX of the conference report violated Rule XXVIII, paragraph 2.

ACTION: MOTION TO TABLE AGREED TO, 50-48

SYNOPSIS: The conference report to accompany H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998, will radically restructure the Internal Revenue Service (IRS) to make it more accountable and responsive to taxpayers' needs, and will enact comprehensive reforms to protect taxpayers from IRS abuses of power.

Senator Murray raised a point of order that title IX of the conference report violated Rule XXVIII, paragraph 2 because it contained subject matter not considered by either House. Title IX would make technical corrections to the Transportation Equity Act for the 21st Century (TEA 21, or ISTEA II). In TEA 21, \$15.4 billion in offsets were claimed from denying veterans' disability payments for smoking-related disabilities. The provision was prompted by a ruling by the legal counsel at the Veterans Affairs (VA) Department that disabilities related to smoking were service-connected disabilities, and should be treated on a par with disabilities incurred in combat. That ruling was opposed by the VA. President Clinton, Senate Republicans, and Senate Democrats all recommended rescinding it in their budget proposals for this year. The Office of Management and Budget (OMB) estimated that the ruling by that official would increase mandatory spending by approximately \$17 billion over 5 years, and the Congressional Budget Office (CBO) estimated it would increase it by approximately \$10.5 billion. In practice, the VA has not been granting many smoking-related disabilities claims in the very brief time that the official's ruling has been in effect, so the actual cost, assuming no administrative or court-order expansion of benefits, may be more in the range of \$200 million. The OMB's estimate was used on TEA 21, which allowed a larger amount of mandatory spending under the budget rules. Under pay-go procedures, legislative proposals may not increase total mandatory spending. By rescinding the VA official's ruling, which had barely begun to go into effect and which had increased the expected amount of mandatory spending over 5 years by \$17 billion (according to the OMB),

(See other side)

YEAS (50)			NAYS (48)			NOT VOTING (2)	
Republicans (48 or 91%)		Democrats (2 or 4%)	Republicans (5 or 9%)	Democrats (43 or 96%)		Republicans (2)	Democrats (0)
Abraham	Helms	Baucus	Bond	Akaka	Johnson	Hutchison- ²	
Allard	Hutchinson	Moynihan	Collins	Biden	Kennedy	Kyl- ²	
Ashcroft	Inhofe		D'Amato	Bingaman	Kerrey		
Bennett	Jeffords		McCain	Boxer	Kerry		
Brownback	Kempthorne		Specter	Breaux	Kohl		
Burns	Lott			Bryan	Landrieu		
Campbell	Lugar			Bumpers	Lautenberg		
Chafee	Mack			Byrd	Leahy		
Coats	McConnell			Cleland	Levin		
Cochran	Murkowski			Conrad	Lieberman		
Coverdell	Nickles			Daschle	Mikulski		
Craig	Roberts			Dodd	Moseley-Braun		
DeWine	Roth			Dorgan	Murray		
Domenici	Santorum			Durbin	Reed		
Enzi	Sessions			Feingold	Reid		
Faircloth	Shelby			Feinstein	Robb		
Frist	Smith, Bob			Ford	Rockefeller		
Gorton	Smith, Gordon			Glenn	Sarbanes		
Gramm	Snowe			Graham	Torricelli		
Grams	Stevens			Harkin	Wellstone		
Grassley	Thomas			Hollings	Wyden		
Gregg	Thompson			Inouye			
Hagel	Thurmond						
Hatch	Warner						

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

Congress was able to increase direct spending on the Highway Bill substantially without that direct spending being subject to a point of order. (For related debate, see vote Nos. 75-76 and 147). When TEA 21 was enacted, drafting errors in the section rescinding the VA counsel's ruling inadvertently restricted other veterans' benefits. Title IX of this bill will restore those benefits that were mistakenly restricted.

The Chair ruled that the Murray point of order was not well taken (see vote No. 186 and 104th Congress, second session, vote No. 305 for precedents). Senator Murray then appealed the ruling of the Chair. Senator Chafee moved to table that appeal. A motion to table is not debatable; however, some debate preceded the making of the motion. Generally, those favoring the motion to table opposed Title IX; those opposing the motion to table favored Title IX.

Those favoring the motion to table contended:

We have already had votes on this highly charged, emotional issue, and we will probably have future votes as well. Right now, we have two narrow questions before us. The first question is, should we restore veterans' benefits that were inadvertently restricted at the same time as Congress rescinded the VA general counsel's ruling regarding smoking-related disability payments? Title IX will restore such benefits. It has nothing to do with the argument on smoking-related disability payments; it only makes technical corrections. Senators disagree as to the advisability of that general counsel's ruling, but they do not disagree on the merits of the other benefits that were mistakenly restricted. Our colleagues want to stop us from making these corrections as a means of pressuring us to readdress the issue of smoking-related disability benefits. Those benefits have never been given, but the benefits that have been cut by mistake have been given for years and many veterans are dependent upon them. In our opinion, our colleagues are wrong to want to hold disabled veterans hostage until they can implement this new benefit. The second question is, should we kill this conference report just because it restores benefits to veterans that were mistakenly denied? A point of order against a conference report item does not result in that item being stricken; it makes the entire conference report fall. Our colleagues may hope and assume a new conference will be held and a new report will be issued, but anytime a conference report is defeated a huge risk is taken that a new report will not be issued. Senators who favor this point of order will have to weigh the risks involved. By voting against the motion to table, they may kill this conference report and kill IRS reform that will benefit every taxpayer in America. We neither want to hold any veterans' benefits hostage while we argue about smoking benefits nor do we want to risk killing this reform bill. Therefore, we support the motion to table.

Those opposing the motion to table contended:

For many years, the United States military encouraged soldiers to smoke. It even gave them cigarettes for free in their rations. As a result, many soldiers became addicted to cigarettes. The VA general counsel ruled that when a soldier's lifetime addiction to cigarettes results in a disability, and when that addiction started when that soldier was in the military, then that soldier is entitled to disability benefits. President Clinton's budget proposal for this year, Republican Senators' budget proposal for this year, and Democratic Senators' budget proposal for this year all proposed rescinding that ruling. Then, on the highway bill conference report, Congress carried through on that proposal in order to get an extra \$17 billion to spend on highways. We think our colleagues and the President were wrong to oppose that ruling, and to support spending that money on highways. We have been trying to get an up-or-down vote on the fairness of taking this benefit away from veterans, but so far we have failed. We will continue with this effort, because we are confident that if we ever get a clear vote on the issue Senators will not dare vote against our position. In passing the highway bill that took away the smoking disability benefit from veterans, our colleagues made a drafting error that mistakenly took away other benefits. They of course want to correct that error. Ordinarily, when such errors are made, Congress passes a technical corrections bill. In this case, such a bill has not been proposed because opponents of giving smoking-related disability benefits know that if it were an amendment would be proposed to restore those benefits, and that amendment would pass. Our colleagues have therefore abused the conference committee process by sticking the needed technical corrections into this conference report. They should not be allowed to get away with this action. They should be forced to address the issue directly. We therefore urge our colleagues to oppose the motion to table.